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VIA EMAIL AND/OR HAND DELIVERY AT HEARING

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RE: Cody Temple, Skyline Drive
Request for Special Exemption and Conditional Use Permit
The Church of Jesus Christ of Latter-day Saints

Dear Planning & Zoning Board:

This third letter is written on behalf of The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole (the "Church"). We submit this letter in support of the above-referenced application for a special exemption request and conditional use permit. This letter should be included as part of the Church's application record. **This letter responds to the additional opposition letter of June 14, 2023 ("Third Opposition Letter")** of the Preserve Our Cody Neighborhoods group submitted to the City yesterday afternoon.

As explained in the Church's applications and the Church's prior letters in support, the Cody Temple qualifies for both a special exemption and conditional use permit. The Planning and Zoning Board should grant the Church's applications under existing Cody City Ordinances and applicable law.

Opponents' arguments are diversionary and misstate the Church's positions. They do not modify the Church's satisfaction of applicable parameters. Without limitation, the Church responds generally to the barrage of accusations and misstatements of law of opponents as follows:

- The case law referenced by opponents is limited and does not overcome the case law and constitutional and statutory premises provided by the Church. For example, the opponents cite *Grace United Methodist Church v. City of Cheyenne*, 451 F.3d 643 (10th Cir. 2006) in support of their arguments. However, they fail to point out that this case simply held that a Church could not operate a day care that would charge a fee for services in violation of the applicable zoning ordinance. The opponents also rely heavily on *Harmon v. City of Norman*, 61 F.4th 779 (10th Cir. 2023). Likewise, this case does not address the right of a religion to build a house of worship. Rather it dealt with the unruly behavior of demonstrators at an abortion clinic. The Church's positions and legal basis, as previously set forth are accurately stated, have withstood judicial scrutiny, and need not be repeated here. Suffice it to say there is well-established law protecting the right of religions to build houses of worship and the symbolic speech that church steeples have in our society.
- Contrary to Opponents assertions, and as set forth previously, the City should grant the Special Exemption and Conditional Use Permit applications. Such action would be consistent with and supported by Cody's special exception and conditional use ordinances as well as State and Federal Constitutions and other applicable federal law.
- The restrictions and limitations on the design and operation of the Cody Temple being advocated by the opposition would substantially burden the Church and its member's religious exercise. Church steeples represent an age-old symbol representing a house of worship. The Cody Temple with its steeple as proposed, facilitates all three components of religious exercise in the three-fold doctrinal mission of the Church established by Church prophets for decades, which is to: Proclaim the Gospel, Perfect the Saints, and Redeem the Dead.¹ The Temple in its design, location and structure, as well as in the religious message it sends, along with the work performed inside the temple by members of the Church for the dead, embodies the exercise of religion.
- The opposition is fundamentally misdirected. The Church has not sought to challenge as unconstitutional or overturn existing City ordinances but rather to receive a special exception and conditional use permit as allowed by existing ordinances. The Church has worked extensively with the City to get to this point and has agreed to a substantial number of changes and alterations directed by the City. See the City Planner Report, pp. 28-31 (containing 15 specific recommendations).

¹ As stated by President Spencer W. Kimball, as prophet and president of the Church of Jesus Christ of Latter-day Saints, in the Church's April 1982 General Conference: "[T]he mission of the Church is threefold: First, to proclaim the gospel of the Lord Jesus Christ to every nation, kindred, tongue, and people; Secondly, to perfect the Saints by preparing them to receive the ordinances of the gospel and by instruction and discipline to gain exaltation; Thirdly, to redeem the dead by performing vicarious ordinances of the gospel for those who have lived on the earth. (See *Ensign*, May 1981, p. 5.) All three are part of one work—to assist our Father in Heaven and His Son, Jesus Christ, in their grand and glorious mission "to bring to pass the immortality and eternal life of man." (*Moses 1:39*.) I renew that declaration today. Let us keep these sacred principles in mind and make them an integral part of our lives: that is, to *proclaim the gospel*, to *perfect the Saints*, and to *redeem the dead*."

- The neutral application of the underlying ordinances, a point on which so much effort is focused by the opposition, is diversionary. Applicable law would prohibit the City from negatively treating the Church disparately from other religious entities, even under a neutral ordinance. In addition, as previously set forth, constitutional and federal law protections regarding religious exercise also apply to this situation and support granting the special exception and conditional use permit for the Cody Temple.
- The opponents are essentially urging the City to make a determination of hierarchy of the importance or necessity of the religious message and symbolic speech that the Cody Temple is intended to convey. Such a determination would be unlawful.
- Likewise, the opponents' argument that there are alternative means (i.e. internet, social media) for sending some type of religious messages and that those means should be enough and adequate for the Church's religious exercise (such that the Church does not need to send its religious message with its Temple as designed), if adopted, would result in the City improperly interfering and directing the religious exercise and religious messages by the Church.
- There simply is no legitimate protected health, safety, or welfare item that would support a compelling governmental interest to justify denying or modifying the special exemption or conditional use permit for the Cody Temple as requested. Accordingly, neither would there be any basis to demonstrate that such denial or modification is the least obtrusive means to accomplish such compelling health, safety, welfare item.

The opponents further seek to degrade and challenge the staff evaluation and report. Such efforts are unmerited and incorrect.

- Without limitation, and regardless of whether or not opponents agree with the City staff, the City staff is not personally under scrutiny or on trial. The staff report is a statement of investigation, findings, and conclusions for the Planning and Zoning Board's consideration.
- The staff report accurately outlines existing ordinances and requirements. Opponents' assertions to the contrary are unsupported.
- Opponents mis-state the impact and purpose of the Master Plan.
- Opponents ignore applicable requirements attendant the special exemption and conditional use permit applications as regarding traffic reports and refuse to acknowledge the substantial traffic information and findings provided.

- Opponents make allegations but provide no support for their assertions. Opponents fail to provide any counter-veiling traffic report, study, expert analysis, or counter-veiling evidence.

Under existing Cody City ordinances, the Cody Temple as designed satisfies the elements for special exemption as well as the considerations attendant a conditional use permit. Moreover, granting a special exemption and conditional use permit for the Cody Temple as proposed is supported by state and federal constitutions as well as other federal law. Accordingly, the Planning and Zoning Board should grant the Church's application for special exception and conditional use permit to allow for the Cody Temple as submitted.

Thank you for your consideration of this matter.

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